

## SUMMARY REPORT OF INVESTIGATION

## I. EXECUTIVE SUMMARY

Date of Incident:	June 29, 2018
Time of Incident:	Approximately 16:30 hours
Location of Incident:	5300 W. Chicago Ave.
Date of COPA Notification:	June 29, 2018
Time of COPA Notification:	17:45

On June 28, 2018, Officers curbed [REDACTED] near [REDACTED] for expired plates. Officers asked [REDACTED] for his license and proof of insurance and could not produce any. [REDACTED] was then asked to exit the vehicle. Officer [REDACTED] then handcuffed [REDACTED] and conducted a pat down of [REDACTED]. Simultaneously, Officer [REDACTED] began searching the vehicle. Officer [REDACTED] then ran [REDACTED] name in LEADS. After [REDACTED] was revealed not to have any warrants or investigative alerts, he was released without any citations.

## II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star No. [REDACTED] Employee No. [REDACTED] DOA: [REDACTED] 2014 Rank: 9161 Unit: [REDACTED] DOB: [REDACTED] 2018 Gender: Male Race: White Hispanic
Involved Officer #2:	[REDACTED] Star No. [REDACTED] Employee No. [REDACTED] DOA: [REDACTED] Rank: 9161 Unit: [REDACTED] District DOB: [REDACTED] 2018 Gender: Male Race: White
Involved Officer #3:	[REDACTED] Star No. [REDACTED] Employee No. [REDACTED] DOA: [REDACTED] 2014 Rank: 9161 Unit: [REDACTED] DOB: [REDACTED] 1987 Gender: Male Race: White Hispanic
Involved Officer #4:	[REDACTED]; Star No. [REDACTED] Employee No. [REDACTED] DOA: [REDACTED] 2014 Rank: 9161 Unit: [REDACTED] Date of Birth: [REDACTED] 1989 Gender: Male Race: White Hispanic
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 1995 Male Black

## III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	<p>1. It is alleged that on June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully stopped [REDACTED]</p> <p>2. It is alleged that on June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully detained [REDACTED]</p> <p>3. It is alleged that June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully searched [REDACTED] person.</p> <p>4. It is alleged that Officer [REDACTED] failed to complete an Investigatory Stop Report related to the stop of [REDACTED] on June 29, 2018.</p>	EXONERATED
Officer [REDACTED] [REDACTED]	<p>1. It is alleged that on June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully stopped [REDACTED]</p> <p>2. It is alleged that on June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully detained [REDACTED]</p> <p>3. It is alleged that June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully searched [REDACTED] person.</p> <p>4. It is alleged on June 29th, 2018, Officer [REDACTED] failed to activate his body-worn camera during the stop of [REDACTED]</p> <p>5. It is alleged that Officer [REDACTED] failed to complete an Investigatory Stop Report</p>	EXONERATED EXONERATED UNFOUNDED SUSTAINED SUSTAINED

	related to the stop of [REDACTED] on June 29, 2018.	
Officer [REDACTED] [REDACTED]	1. It is alleged that on June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully stopped [REDACTED]  2. It is alleged that on June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully detained [REDACTED]  3. It is alleged that June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully searched [REDACTED] person.  4. It is alleged on June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully searched the vehicle being driven by [REDACTED]  5. It is alleged that Officer [REDACTED] failed to complete an Investigatory Stop Report related to the stop of [REDACTED] on June 29, 2018.	EXONERATED  EXONERATED  UNFOUNDED  SUSTAINED  SUSTAINED
Officer [REDACTED]	1. It is alleged that June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] failed to activate his body-worn camera during the traffic stop of [REDACTED]  2. It is alleged that Officer [REDACTED] failed to complete an Investigatory Stop Report related to the stop of [REDACTED] on June 29, 2018.	SUSTAINED  SUSTAINED

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. Rule 1: Prohibits an officer from violating any law or ordinance
2. Rule 6: Prohibits an officer from violating any rule or directive

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**Special Orders**

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1. Special Order S04-13-09, Investigatory Stop System
2. Special Order S03-14, Body-Worn Cameras

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**Federal Laws**

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1. U.S. Constitution, Fourth Amendment

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**State Laws**

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1. 725 ILCS 5/107-14 Investigatory Stops
2. 725 ILCS 5/108-1.01 Protective Pat Downs

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**V. INVESTIGATION<sup>1</sup>****a. Interviews**

████████ gave a statement to the Civilian Office of Police Accountability (COPA) on July 2, 2018. In his statement, █████ told investigators that on June 29th, 2018, he was driving on Chicago Avenue toward Laramie when his vehicle was curbed by police officers. Officer █████ told █████ that his license plate was expired. Officers █████ asked him for his license and insurance, but he did not have either on him at the time of the stop. Officer █████ asked him to step out of the vehicle. Officer █████ escorted █████ to the back of █████ vehicle, where he was handcuffed by Officer █████ Officer █████ asked █████ if he consented to a search of his pockets. █████ said yes because he did not want to make a scene. █████ did not consent to a search of the vehicle.

████████ felt that Officer █████ switched the reason that he was pulled over from his license plate being expired to █████ not having a license on him, which Officer █████ could not have known prior to pulling him over. █████ contended that his plates were not expired. After Officer █████ ran his name and completed his investigation, █████ was permitted to leave. While Officer █████ was conducting his investigation into the license, Officer █████ was aggressively searching his car, including lifting the seats, searching the glove compartment, and center console. █████ felt that the search was not tied to the reason for the traffic stop. █████ also complained that the glove box could not be closed and that he did not know how to put the seat back in place. Officer █████ offered █████ a stop receipt, but █████ declined.

Officer █████ gave a statement to COPA on October 10, 2018. In his statement, Officer █████ told investigators that he largely did not recall the June 29<sup>th</sup> traffic stop of █████. After watching his body-worn camera, Officer █████ was able to recall more information about the stop. Based on the video, Officer █████ told investigators that the vehicle

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<sup>1</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>2</sup> Attachment 38

<sup>3</sup> Attachment 21

was stopped because it had expired license plate tags. Officer [REDACTED] described his role as “the business officer” on the front passenger side, for the purpose of engaging any passengers, if needed. Based on the video, Officer [REDACTED] told investigators that [REDACTED] was asked out of the vehicle because he could not produce a valid license. Similarly, based on the video, [REDACTED] was handcuffed, but Officer [REDACTED] did not know why.

Officer [REDACTED] did not recall searching the vehicle but based on his review of the body-worn camera, he admitted that he did search the vehicle. Officer [REDACTED] told investigators he searched the vehicle because he must have either smelled cannabis or saw [REDACTED] reaching toward the front of the seat, though he did not recall specifically. Officer [REDACTED] told investigators that he was searching the vehicle for weapons or narcotics. Officer [REDACTED] told investigators that, at the beginning of their interaction, [REDACTED] was bent over, but he could not recall [REDACTED] doing anything specific that he felt was threatening or aggressive.

Officer [REDACTED] stated that there was confusion about which of his team members was going to complete the Investigatory Stop Report, and that confusion resulted in no one writing it.

**Officer [REDACTED]** gave a statement to COPA on November 21, 2018. In his statement, Officer [REDACTED] told investigators that his role in the traffic stop was to keep watch over the detainee. After watching the body-worn camera, Officer [REDACTED] recalled that [REDACTED] did not have a license on him at the time. Officer [REDACTED] stated that he did not recall whether the plates were expired. Officer [REDACTED] also conducted a protective pat down on [REDACTED]. Officer [REDACTED] stated that [REDACTED] was handcuffed for officer safety. Officer [REDACTED] stated that he made the decision to handcuff [REDACTED] because he did not have identification on him and could not identify him, but he could not recall specifically why he handcuffed [REDACTED].

Officer [REDACTED] asked for consent to search [REDACTED] person. [REDACTED] consented to the search. Officer [REDACTED] did not recall the search of [REDACTED] name in LEADS but recalled that his name came back clear. Officer [REDACTED] stated that he did not know whether [REDACTED] was going to be released until after the name search came back clear. Officer [REDACTED] stated that he did not complete an Investigatory Stop Report.

**Officer [REDACTED]** gave a statement to COPA on November 21, 2018. In his statement, Officer [REDACTED] told investigators that [REDACTED] was stopped because his license plates were expired. [REDACTED] was asked out of the vehicle because he could not produce a driver’s license. [REDACTED] was then handcuffed by Officer [REDACTED]. After reviewing the PCAD messages for the vehicle, Officer [REDACTED] confirmed that the vehicle plates were expired in LEADS. When shown Attachment 6, which depicts a vehicle sticker that expires in March of 2019, not March of 2018, Officer [REDACTED] stated that he did not recall the sticker on the plates at the time, but regardless of the sticker, he was required to use the information in LEADS, which showed that the plates were expired.

After [REDACTED] was in handcuffs, Officer [REDACTED] told investigators that he took a plain view look through the windows and open door of [REDACTED] vehicle. He then went back to the vehicle

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<sup>4</sup> Attachment 24

<sup>5</sup> Attachment 25

to check [REDACTED] name in LEADS<sup>6</sup> and verify whether he had a valid license. After reviewing the PCAD results, Officer [REDACTED] stated that [REDACTED] name was clear. Officer [REDACTED] denied physically searching the vehicle. Officer [REDACTED] did not recall whether [REDACTED] consented to the search of the vehicle. Officer [REDACTED] told investigators that he used his discretion in not arresting or ticketing [REDACTED] for any of the offenses. Officer [REDACTED] admitted that he failed to activate his body-worn camera and that he failed to complete an Investigatory Stop Report.

**Officer [REDACTED]**<sup>7</sup> gave a statement to COPA on December 27, 2018. In his statement, Officer [REDACTED] told investigators that he largely did not recall anything about the stop. Most of his recollection was based on the video. Officer [REDACTED] recalled running [REDACTED] name in LEADS. Officer [REDACTED] told investigators that he attempted to activate his body-worn camera, but it failed to activate, and he did not realize that it was not active until after the stop was complete. Officer [REDACTED] stated that he did not complete an Investigatory Stop Report and that the responsibility usually fell to the officer that did the pat down.

### b. Digital Evidence

#### Body-worn Cameras:

**Officer [REDACTED] Body-Worn Camera,**<sup>8</sup> reflects that the traffic stop lasted for approximately four minutes and forty-four seconds. Officer [REDACTED] exits the vehicle and approaches the passenger side of [REDACTED] vehicle. Officer [REDACTED] can be seen on the driver's side of the vehicle engaging with [REDACTED]. Officer [REDACTED] asks [REDACTED] why his hands are shaking. [REDACTED] answers that it is because he is hot. Officer [REDACTED] proceeds to tell [REDACTED] that he was stopped because his registration is expired. Officer [REDACTED] then asks [REDACTED] for his driver's license. [REDACTED] says that he does not have it with him. Officer [REDACTED] then asks [REDACTED] to step out of the vehicle.

Once outside of the vehicle, Officer [REDACTED] passes [REDACTED] to Officer [REDACTED]. Officer [REDACTED] tells [REDACTED] that he is being pulled out of the vehicle because he does not have a license on him. Officer [REDACTED] then opens the passenger door and begins searching inside the passenger door accessory pocket. Officer [REDACTED] says, "he was shaking like a leaf. Did you see that?" Officer [REDACTED] also searches inside the center console of the vehicle. Officer [REDACTED] then goes to the rear of the passenger cabin and searches that area, lifting the rear seat cushion into the air. Officer [REDACTED] then exits the vehicle and stands near the rear, where Officer [REDACTED] is standing with [REDACTED]

Officer [REDACTED] returns from the patrol car and tells [REDACTED] that he needs to carry his license with him. He also re-emphasizes that the plates are expired. Officer [REDACTED] tells [REDACTED] to do whatever he needs to do in Indiana to get the plates fixed. Officer [REDACTED] uncuffs [REDACTED]. [REDACTED] is offered a stop receipt. Officer [REDACTED] suggests that [REDACTED] just go home and eat his food. [REDACTED] declines the receipt, then the video ends.

<sup>6</sup> Attachment 43

<sup>7</sup> Attachment 29

<sup>8</sup> Attachment 65

Officer [REDACTED] **Body-worn Camera**,<sup>9</sup> depicts Officer [REDACTED] exiting the police car and approaching the driver side of the vehicle. Officer [REDACTED] asks [REDACTED] to exit the vehicle. Officer [REDACTED] asks [REDACTED] if he can search him. [REDACTED] says, "go ahead." Officer [REDACTED] then cuffs [REDACTED] behind his back. Officer [REDACTED] then moves [REDACTED] to the rear of the vehicle and begins searching him. [REDACTED] tells Officer [REDACTED] that it is his mother's vehicle. Officer [REDACTED] takes down [REDACTED] name and goes back to the patrol car.

Officer [REDACTED] peers into the vehicle. [REDACTED] suggests that the officers run his name to verify the validity of his license. [REDACTED] tells Officer [REDACTED] that he had just picked up food and is on his way back home. Officer [REDACTED] leans into the vehicle through the rear passenger door. Officer [REDACTED] closes the door and goes to stand near [REDACTED] and Officer [REDACTED]. Officer [REDACTED] tells [REDACTED] to turn around and then begins to uncuff him. Officer [REDACTED] tells [REDACTED] that he needs to carry his information with him and tells [REDACTED] that his plates are expired. Officer [REDACTED] tells [REDACTED] that he needs to get a new sticker or whatever they do in Indiana. Officer [REDACTED] then offers [REDACTED] a receipt for the stop. Initially, [REDACTED] says yes but says no once [REDACTED] learns that the receipt is for him and not his mother. Officer [REDACTED] returns to the squad car and the incident ends.

At the end of Officer [REDACTED] body-worn camera, [REDACTED] license plate is visible and shows a 2019 registration sticker.

#### c. Documentary Evidence

**PDT Messages**<sup>10</sup>: PDT messages for user [REDACTED] (Officer [REDACTED]) show that at 16:32 hours the license plate " [REDACTED] " was searched in LEADS. The LEADS search results listed the vehicle registration expiration date as March 7th, 2018. The results show that on June 29, 2018, the vehicle registration was expired.

**Event Query** [REDACTED]:<sup>11</sup> This event query recorded a traffic stop at Chicago and Latrobe by unit [REDACTED].

#### d. Additional Evidence

**The Statistical Traffic Stop No.** [REDACTED]<sup>12</sup> documented the traffic stop of [REDACTED] for "unlawful parking expired registration."

**Photograph**<sup>13</sup>: [REDACTED] provides a photograph of his license plate on August 16, 2018 with a registration sticker that indicates the registration expires March 7th of 2019.

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<sup>9</sup> See Attachment 65.

<sup>10</sup> Attachments 4 &5

<sup>11</sup> Attachment 40

<sup>12</sup> Attachment 42

<sup>13</sup> Attachment 6

## VI. LEGAL STANDARD

### a. Possible findings and burdens of proof

For each allegation COPA must make one of the following findings:

Sustained - where it is determined the allegation is supported by a preponderance of the evidence;

Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;

Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or

Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct violated Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

## VII. ANALYSIS

### a. It is alleged that officers [REDACTED] and [REDACTED] unlawfully stopped [REDACTED]

A lawful traffic stop requires "at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law," including traffic law. *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)). Articulable and reasonable suspicion means that the police "must be able to identify some 'particularized and objective basis' for thinking that the person to be stopped is or may be about to engage in unlawful activity," amounting to more than a hunch. *United States v. Miranda-Sotolongo*, 827 F.3d 663, 666 (7th Cir. 2015) (quoting *United States v. Cortez*, 449 U.S. 411, 417 (1981)). Police need not meet the higher threshold of probable cause to perform a traffic stop, but if the stop is supported by probable cause, its lawfulness is still evaluated under *Terry*. *Rodriguez*

v. *United States*, 135 S. Ct. 1609, 1617-18 (2015). An officer's subjective intent does not enter into the analysis; even where officers hope to effectuate a goal unrelated to addressing a traffic violation (such as uncovering criminal activity), intent alone does not invalidate a stop that is otherwise objectively justified by reasonable articulable suspicion. *See Whren v. United States*, 517 U.S. 806, 812 (1996).

An expired registration is a violation of the law.<sup>14</sup> A preponderance of the evidence demonstrates that prior to initiating the traffic stop, the involved officers searched [REDACTED] license plate in LEADS and discovered that the vehicle's registration was expired. LEADS showed that the registration expired in March of 2018. [REDACTED] produced a photograph of his license plate with an expiration date of March of 2019 in August of 2018 as evidence that his registration was not expired at the time of the stop. Officer [REDACTED] body-worn camera footage corroborates that a facially valid registration sticker was on his license plate on the date of the incident. However, the results of a LEADS search provided the officers sufficient basis to initiate a traffic stop (*i.e.* constituted articulable and reasonable suspicion that the registration was expired) and investigate whether the registration was valid. Therefore, the officers had a lawful basis to initiate a traffic stop. Allegation #1 against Officers [REDACTED] and [REDACTED] is **Exonerated**.

**b. It is alleged that officers [REDACTED] and [REDACTED] unlawfully detained [REDACTED]**

As explained above, Officers [REDACTED] and [REDACTED] lawfully stopped [REDACTED]. However, A traffic stop must last no longer than is required for law enforcement to effectuate its "mission," which is "to address the [] violation that warranted the stop, and attend to related safety concerns." *Rodriguez v. United States*, 135 S. Ct. 1609, 1614 (2015) (citing *Illinois v. Caballes*, 543 U.S. 405, 407 (2005)). "[O]rdinary inquiries incident to [the] stop" are lawful, falling under the rubric of 'related safety concerns.'" *Id.*, at 1615. Such inquiries include performing outstanding warrant and criminal history checks, as well as examining driver's licenses, vehicle registrations, and proof of insurance. *Id.*; *See also People v. Cummings*, 2016 IL 115769, ¶ 14 (2016). Inquiries unrelated to the stop's mission are lawful only if they "do not measurably extend the duration of the stop." *Id.* at 1614; *Caballes*, 543 U.S. at 410 (holding that it was lawful for an officer to walk a narcotics-detection dog around a vehicle while another officer issued a speeding ticket because it did not prolong the stop).

Even when police stay on-mission throughout the traffic stop, holding a vehicle's occupants for too long a period of time is unlawful. The Supreme Court has declined to establish a bright-line rule on how long is too long, *United States v. Sharpe*, 470 U.S. 675, 686 (1985), but has stated that "the investigative methods employed should be the least intrusive means reasonably available to verify or dispel the officer's suspicions in a short period of time." *People v. Gonzales*, 204 Ill. 2d 220, 233 (2003) (quoting *Florida v. Royer*, 460 U.S. 491, 500 (1983)). If an alternative, less intrusive means of investigation was available at the time of the stop, the determinative factor in the lawfulness of the investigation is "whether the police acted unreasonably in failing to recognize or pursue [the alternative]." *Sharpe*, 470 U.S. at 687 (holding a twenty-minute stop

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<sup>14</sup> The traffics statistical study stated the officers stopped [REDACTED] for parking of vehicle with expiration registration. *See* 625 ILCS 5/11-1304.5.

reasonable because the police acted diligently, and the suspect's actions contributed to the added delay).

Following the initial traffic stop for the expired plates, Officer [REDACTED] asked [REDACTED] to step out of the vehicle because he did not have a physical driver's license on him. [REDACTED] admitted that he did not have a driver's license on him at the time. [REDACTED] consented to a search and at that time, was handcuffed and patted down by Officer [REDACTED]. Officer [REDACTED] stated that he handcuffed [REDACTED] because [REDACTED] did not have identification on him.<sup>15</sup> When [REDACTED] name came back free of warrants or other investigative alerts, the officers used their discretion in deciding to release [REDACTED] without citations.

Although, as explained below, Officer [REDACTED] improperly searched [REDACTED] vehicle, there is no evidence that Officer [REDACTED] actions delayed [REDACTED] detention because Officer [REDACTED] was running [REDACTED] name through LEADS at this time. Furthermore, the entire stop only took approximately five minutes. For these reasons, the officers lawfully detained [REDACTED]. Therefore, Allegation #2 against Officers [REDACTED] and [REDACTED] is **Exonerated**.

**It is alleged that Officers [REDACTED] and [REDACTED] unlawfully searched [REDACTED] person**

Rule 6 requires an officer to comply with all orders and directives. Under Special Order S04-13-09, "a sworn member must possess specific and articulable facts, combined with rational inferences from these facts, that the suspect is armed and dangerous or reasonably suspects that the person presents a danger of attack to the sworn member or others in the area to conduct a protective pat down." Alternatively, a person can simply consent to a search.

Officer [REDACTED] asked [REDACTED] for consent to search and [REDACTED] gave consent. [REDACTED] told investigators that he did consent to the search of his person because he did not want to make the situation any worse or draw more officers to the scene. This was also captured in Officer [REDACTED] body-worn camera. The voluntariness of a consent to a police search depends upon the totality of the circumstances, and the "consentor must have been under no duress or coercion, actual or implied, and the consent must have been unequivocal, specific, and freely and intelligently given." *People v. Purchase*, 214 Ill. App. 3d 152, 155 (3d. App. 1991). Here, COPA finds that [REDACTED] consent was validly given. Importantly, [REDACTED] consented to the search prior to being handcuffed. Therefore, Allegation #3 against Officer [REDACTED] is **Exonerated**.

Officer [REDACTED] denied searching [REDACTED]. Body-worn footage confirmed that Officer [REDACTED] did not participate in the search of [REDACTED] person. Therefore, Allegation #3 against Officer [REDACTED] is **Unfounded**.

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<sup>15</sup> Officer [REDACTED] did not articulate any reasonable basis to believe [REDACTED] posed a threat to him. However, Officer [REDACTED] could lawfully handcuff [REDACTED] because he had probable cause to arrest [REDACTED] for failing to possess a valid license while driving. 625 ILCS 5/6-112 ("Every licensee or permittee shall have his drivers license or permit in his immediate possession at all times when operating a motor vehicle . . . .").

**d. It is alleged that officer [REDACTED] unlawfully searched the vehicle [REDACTED] was driving<sup>16</sup>**

Rule 1 prohibits an officer from violating any law or ordinance. The Fourth Amendment to the U.S. Constitution protects citizens from unreasonable searches and seizures. Under the “automobile exception” to the search warrant requirement, Courts have ruled that “law enforcement officers may undertake a warrantless search of a vehicle if there is probable cause to believe that the automobile contains evidence of criminal activity that the officers are entitled to seize.” *People v. James*, 163 Ill. 2d 302, 312 (Ill. 1994) (citing *Carroll v. United States*, 267 U.S. 132 (1925)). “When officers have such probable cause, the search may extend to ‘all parts of the vehicle in which contraband or evidence could be concealed, including closed compartments, containers, packages, and trunks.’” *United States v. Richards*, 719 F.3d 746, 754 (7th Cir. 2013) (citing *United States v. Williams*, 627 F.3d 247, 251 (7th Cir. 2010)). Furthermore, when officers perform a traffic stop, they may search the passenger compartment for weapons if they “possess an articulable and objectively reasonable belief that the suspect is potentially dangerous.” *Michigan v. Long*, 463 U.S. 1032, 1051 (1983).

Here, based on Officer [REDACTED] statements, it is evident that he lacked both reasonable articulable suspicion and probable cause to search the vehicle. When asked by investigators why he searched the vehicle, Officer [REDACTED] could not recall. After a review of body worn camera, Officer [REDACTED] answered because he must have *either* smelled cannabis or saw [REDACTED] reaching toward the front of the seat. When asked what he was searching for, Officer [REDACTED] told investigators that he was searching the vehicle for weapons or narcotics. Officer [REDACTED] mentioned that [REDACTED] was bent over when he was initially stopped as the reason for his suspicion.

Officer [REDACTED] did not possess an objectively reasonable belief that [REDACTED] was dangerous. Officer [REDACTED] could not articulate anything about [REDACTED] behavior that he considered suspicious or threatening. When pressed to expound upon what made [REDACTED] appear dangerous, Officer [REDACTED] could not recall, nor did he see anything on the video that stood out. Officer [REDACTED] concluded his explanation by stating that “a threat doesn’t necessarily have to be an aggressive threat.” Officer [REDACTED] did reference [REDACTED] bending over, however, he could not articulate what was suspicious about that action. No other officer mentioned [REDACTED] bending over and a review of the body-worn camera does not capture [REDACTED] bending over. In fact, from the time Officer [REDACTED] exited his vehicle, [REDACTED] head is visible on the headrest of the driver’s seat. Furthermore, if Officer [REDACTED] believed [REDACTED] was attempting to conceal anything under the driver’s seat, body-worn camera confirms that Officer [REDACTED] never searched that location.

If Officer [REDACTED] reasonably believed that [REDACTED] may have had a weapon, he also failed to mention it to any officer on the scene, especially the officer [REDACTED] who approached [REDACTED] on the driver’s side of the vehicle. Because Officer [REDACTED] failed to identify a reasonable

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<sup>16</sup> [REDACTED] alleged that Officer [REDACTED] damaged the vehicle during the search by breaking the back seat and glove compartment. Later, [REDACTED] told investigators that he did not know how to secure the seat again after the Officer lifted it. [REDACTED] also told investigators that his mother kept the glovebox in a particular way that allowed her to close it and that he needed her to reposition it to close again because he did not know how.

articulable suspicion that [REDACTED] was dangerous, a protective pat down of the vehicle was improper.

Officer [REDACTED] also suggested that he might have smelled cannabis, which would have given him probable cause to search the vehicle. However, the evidence does not support that Officer [REDACTED] smelled cannabis. Officer [REDACTED] failed to mention to any of the officers on the scene that he smelled marijuana, including the officer who conducted a pat down of [REDACTED]. Furthermore, none of the other three officers reported smelling cannabis, again, including Officer [REDACTED] who conducted a pat down of [REDACTED] and Officer [REDACTED] who first approached [REDACTED] and pulled him out of the vehicle. Furthermore, Officer [REDACTED] admitted that he could not specifically recall if he actually smelled cannabis. COPA does not find that Officer [REDACTED] had probable cause to search the vehicle.<sup>17</sup><sup>18</sup> Because COPA cannot find reasonable articulable suspicion for a pat down or probable cause for a search, this allegation against Officer [REDACTED] is **Sustained**.

e. **It is alleged that officers [REDACTED] and [REDACTED] failed to complete an Investigatory Stop Report related to the stop of [REDACTED] on June 29, 2018**

Special Order S04-13-09 requires that “sworn members who conduct an Investigatory Stop, Probable Cause stop when no other document captures the reason for the detention, and, if applicable, a Protective Pat Down or other search in a public place” submit an Investigatory Stop Report. Here, the officers initiated the traffic stop of [REDACTED] for his expired registration. During the traffic stop, the officers learned that [REDACTED] was not in possession of a driver’s license. The officers then asked [REDACTED] out of the car because he did not have a license while he investigated further. The investigation into [REDACTED] identity was distinct from the initial traffic stop. This alone would have required the completion of an Investigatory Stop Report. Furthermore, Officer [REDACTED] conducted a pat-down of [REDACTED] and Officer [REDACTED] searched the vehicle.

These events triggered the obligation for the officers to complete an Investigatory Stop report. All of the officers involved in the investigatory stop are equally responsible for ensuring that the Investigatory Stop Report is completed. Special Order S04-13-09 article VIII subsection (4) paragraphs (b) and (c) of gives very similar examples of a traffic stop becoming an investigatory stop that required completion of both Investigatory Stop Reports and Statistical Study Stop reports. Here, all of the officers admitted that they did not complete an Investigatory Stop Report. For these reasons, this allegation is **Sustained**.

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<sup>17</sup> Officer [REDACTED] counsel suggested that this was a search incident to an arrest for [REDACTED] driving without a license. A search incident to arrest must occur **after** a lawful arrest. Because [REDACTED] was released without being arrested, this could not be a search incident to arrest. Further, Officer [REDACTED] never articulated any belief that [REDACTED] was under arrest. Regardless, even assuming *arguendo* [REDACTED] was arrested, the exception is inapplicable to the facts of this case. Police may perform a warrantless vehicle search incident to a recent occupant’s arrest under two sets of circumstances: (1) “when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search,” or (2) when it is “reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.” *People v. Bridgewater*, 235 Ill. 2d 85, 94 (2009) (quoting *Arizona v. Gant*, 556 U.S 332, 343 (2009)) (internal quotation marks omitted). Neither exception is applicable.

<sup>18</sup> Probable cause is a higher standard than articulable, reasonable suspicion.

**f. Officers [REDACTED] and [REDACTED] Failed to Activate Their Body-Worn Cameras**

Rule 6 requires that an officer comply with all orders and directives. Special Order S03-14 requires officers activate their body-worn cameras at the beginning of an incident and will record the entire incident for all law-enforcement-related activities, including investigatory stops and traffic stops. Officer [REDACTED] admitted that he failed to activate his body-worn camera. Officer [REDACTED] stated he believed that he activated his camera and later realized that he had not. Similarly, Officer [REDACTED] admitted that he failed to activate his body-worn camera. Officer [REDACTED] also did not provide a reason for failing to activate his body-worn camera. For these reasons, this allegation is **Sustained**.

**VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer [REDACTED]**

Officer [REDACTED] complimentary, training and disciplinary histories were considered in recommending discipline in this matter. Officer [REDACTED] has received a reprimand for equipment violation and a reprimand court appearance violation on September 14, 2018.

COPA finds that Officer [REDACTED] failed to complete an Investigatory Stop Report in this matter. Officer [REDACTED] admitted to failing to complete the report. Based on Officer [REDACTED] admissions COPA recommends a discipline of Reprimand.

**b. Officer [REDACTED]**

Officer [REDACTED] complimentary, training and disciplinary histories were considered in recommending discipline in this matter. Officer [REDACTED] has received a reprimand for a preventable accident April 28, 2018, 1-day suspension for a preventable accident September 17, 2018 and a reprimand for failing to have a current IL license place or city sticker April 16, 2019.

COPA finds that Officer [REDACTED] failed to activate his Body-Worn Camera and failed complete an Investigatory Stop Report in this matter. Officer [REDACTED] admitted to failing to complete the report and recognized that he did not activate his body worn camera. Based on Officer [REDACTED] history COPA recommends a discipline of 1-day suspension.

**c. Officer [REDACTED]**

Officer [REDACTED] complimentary, training and disciplinary histories were considered in recommending discipline in this matter. Officer [REDACTED] received a SPAR for a preventable accident but did not receive discipline on June 24, 2019.

COPA finds that Officer [REDACTED] failed complete an Investigatory Stop Report in this matter. Based on Officer [REDACTED] history, COPA recommends a discipline of violation-noted.

**d. Officer [REDACTED]**

Officer [REDACTED] complimentary, training and disciplinary histories were considered in recommending discipline in this matter. Officer [REDACTED] has received a reprimand for a preventable accident January 25, 2019.

COPA finds that Officer [REDACTED] failed to activate his Body-Worn Camera and failed to complete an Investigatory Stop Report in this matter. Officer [REDACTED] admitted to failing to complete the report and recognized that he did not activate his body worn camera. Based on Officer [REDACTED] history COPA recommends a discipline of 1-day suspension.

**VIII. CONCLUSION**

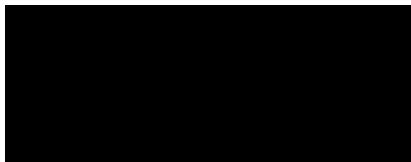
Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	<ol style="list-style-type: none"><li>1. It is alleged that on June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully stopped [REDACTED]</li><li>2. It is alleged that on June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully detained [REDACTED]</li><li>3. It is alleged that June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully searched [REDACTED] person.</li><li>4. It is alleged that Officer [REDACTED] failed to complete an Investigatory Stop Report related to the stop of [REDACTED] on June 29, 2018.</li></ol>	EXONERATED
Officer [REDACTED]	<ol style="list-style-type: none"><li>1. It is alleged that on June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully stopped [REDACTED]</li><li>2. It is alleged that on June 29, 2018, in the vicinity of [REDACTED] Avenue,</li></ol>	EXONERATED
		SUSTAINED
		EXONERATED
		EXONERATED

	<p>Officer [REDACTED] unlawfully detained [REDACTED]</p> <p>3. It is alleged that June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully searched [REDACTED] person.</p> <p>4. It is alleged on June 29th, 2018, Officer [REDACTED] failed to activate his body-worn camera during the stop of [REDACTED]</p> <p>5. It is alleged that Officer [REDACTED] failed to complete an Investigatory Stop Report related to the stop of [REDACTED] on June 29, 2018.</p>	UNFOUNDED
Officer [REDACTED]	<p>1. It is alleged that on June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully stopped [REDACTED]</p> <p>2. It is alleged that on June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully detained [REDACTED]</p> <p>3. It is alleged that June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully searched [REDACTED] person.</p> <p>4. It is alleged on June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] unlawfully searched the vehicle being driven by [REDACTED]</p> <p>5. It is alleged that Officer [REDACTED] failed to complete an Investigatory Stop Report related to the stop of [REDACTED] [REDACTED] on June 29, 2018.</p>	EXONERATED EXONERATED UNFOUNDED SUSTAINED SUSTAINED
Officer [REDACTED]	<p>1. It is alleged that June 29, 2018, in the vicinity of 5300 W. Chicago Avenue, Officer [REDACTED] failed to activate his body-</p>	SUSTAINED

	worn camera during the traffic stop of [REDACTED]	
	2. It is alleged that Officer [REDACTED] failed to complete an Investigatory Stop Report related to the stop of [REDACTED] on June 29, 2018.	SUSTAINED

Approved:

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July 31, 2019

Andrea Kersten  
*Deputy Chief Administrator – Chief Investigator*

\_\_\_\_\_  
Date

**Appendix A**

**Assigned Investigative Staff**

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<b>Squad#:</b>	
<b>Investigator:</b>	
<b>Supervising Investigator:</b>	
<b>Deputy Chief Administrator:</b>	Kersten, Andrea
<b>Attorney:</b>	